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COMMONWEALTH OF VIRGINIA

STATE CORPORATION COMMISSION

AT RICHMOND, JULY 28, 2000

APPLICATION OF

VIRGINIA ELECTRIC AND POWER COMPANY CASE NO. PUE000009

For approval of expenditures for
new generation facilities and for
a certificate of public convenience
and necessity

and

CASE NO. PUE000010

For approval and certification of
transmission facilities

ORDER GRANTING INTERIM AUTHORITY FOR EXPENDITURES

At 4:31 p.m. on Thursday, July 27, 2000, Virginia Electric and Power Company ("Virginia Power" or "Company") filed its Motion for Interim Authority to Make Financial Expenditures and to Undertake Preliminary Construction Work ("Motion") in this matter, in which Virginia Power seeks necessary authorizations under the Code of Virginia to construct a combustion turbine generating unit and attendant electrical transmission facilities. These matters were heard May 22 and 23, 2000, before the Commission's Hearing Examiner and the Examiner's report on the substantive merits of these applications is pending.

In the Motion, Virginia Power asserts that the "Company has entered into a contract with General Electric for the construction and installation of the combustion turbine units. That contract requires construction to begin by August 1, 2000, to meet the June, 2001, completion date. The Company would incur significant cost if construction begins later than August 1." The Motion alleges that beginning work on September 1, 2000, rather than August 1, 2000, would add \$300,000 in unexplained additional costs to the project. Virginia Power's Motion requests that we authorize the Company to "make such financial expenditures for the Project and to undertake preliminary construction work consisting of the installation of pilings and foundations" at the Company's expense and risk.

On Friday, July 28, 2000, Protestant Dynegy Power Corporation ("Dynegy") filed its response, urging us to deny the Motion, and objecting to the last-minute nature of the filing. Dynegy notes that Virginia Power has complete control over the timing of its filing for applications for construction certificates and should bear the consequences of any time delays attributable to its filing decision. Dynegy further notes that Virginia Power failed to effect service of the Motion on it by either telefax or hand-delivery.

On Friday, July 28, 2000, Chief Hearing Examiner Deborah V. Ellenberg issued a Ruling advising us that her final report was imminent and will recommend issuance of the requested authorizations. The Examiner recommends in her Ruling that we grant the Motion. The Ruling also discloses that the criticality of the August 1 construction date does not appear in the record under her consideration prior to Thursday, July 27, 2000, when the Company filed the Motion.

We are concerned that the Company waits until literally the eleventh hour before filing its Motion, which incorporates what it asserts is critical information not previously of record, according to our Chief Hearing Examiner who has reviewed all the documents of record and presided over the two days of hearing in this matter. The Company's Motion states that eight months are needed for construction and the contractual start date for operation is June 1, 2001. Eight months prior to June 1, 2001, is October 1, 2000, the date that has heretofore been considered the critical date in connection with construction start-up.

It is disturbing to have what the Company believes to be important factual matters about a construction project of some importance raised in a post-hearing pleading, and we note that the Company did not apprise the Protestant of its impending filing of the Motion, nor apparently take care to see that it

was timely served. According to Dynegy's response, it became aware of the Motion when the Commission Staff telefaxed it a copy of the Motion on the morning of July 28. The public interest cannot be well-served when the Commission is asked to render important decisions on such a last-minute basis that all sides of the issue cannot effectively be heard from and a meaningful record developed. Were it not that the matter is so easily decided, we could not act on the Motion as requested due to the Company's failure to provide adequate notice. Neither the Commission Staff, nor any party, nor any member of the public should be put to the burden of responding to a request of this nature on less than a day's notice. The Company, and others, should be on notice that requests for our action in the future may be denied unless made with sufficient time to permit meaningful response and consideration.

We will, however, grant the Motion. The Hearing Examiner indicates she will recommend issuance of the requested construction certificates and authorizations in her final report that will be filed shortly, and recommends we grant the Motion for this reason. We are advised by the Staff that it does not oppose the Company being permitted to make the requested expenditures and undertake the designated construction activities. The relief we grant will allow the Company to begin financial commitments and specified

construction activity on the Project at its expense and risk while we consider the merits of the application, the anticipated final report of the Hearing Examiner, and any comments thereon. Accordingly, IT IS ORDERED that:

(1) The Company is hereby granted an exemption from § 56-234.3 of the Code of Virginia for the purpose of making financial expenditures for and to undertake preliminary construction of pilings and footers for this Project.

(2) This Order shall have no ratemaking implications, nor does it constitute any final decision as to the merits of the applications. Any action taken by the Company under the provision of Paragraph No. 1 above shall be at its sole risk and expense.

(3) This matter is continued for further orders of the Commission.